

<p style="text-align: right;">Page 17</p> <p>1 trying to tell us how to govern this system. 2 Q Where did you hear that? 3 A I would hear it by the grievance officer, 4 the grievance committee. The grievance officer 5 would tell me, you are not giving us a chance. As a 6 matter of fact, the guy at the Grievance Office 7 wouldn't even hear my complaint. 8 Q Did you file a formal grievance? 9 A I did everything I could without 10 receiving anything adverse effect to me because of 11 being incarcerated. 12 Q Did you file on a piece of paper with the 13 Grievance Office? 14 A Yes. 15 Q Did you have a hearing? 16 A Yes. 17 Q What was the result of the hearing? 18 A Denied. 19 Q What did you ask for? 20 A I asked to see a specialist, and I asked 21 to have medical treatment. 22 Q And you did see a specialist, is that 23 correct? 24 A Yes. I did see Harry Freedman. 25 Q How many times did you see Dr. Freedman?</p>	<p style="text-align: right;">Page 19</p> <p>1 of fact, she decreased my medication and took me off 2 medication. 3 Q Did she give you a knee brace? 4 A As I remember, it was like an Ace band 5 wrap, an Ace band. 6 Q Did she give you a brace for your knee, 7 though, yes or no? 8 A Eventually she did, yes. 9 Q Did she give you crutches for your knee? 10 A No. She didn't give me any crutches. 11 Q Isn't it true that you were given a 12 prescription for crutches and you refused them? 13 A No. That's not true. 14 Q Okay. How about I show you your medical 15 records where you refused crutches. Did anyone ever 16 tell you to do stretches for your knees? 17 A No. 18 Q No? Did you ever do stretches for your 19 knees? 20 A Basically, walking at one point during my 21 most intense pain was difficult. And at that time, 22 security told me that because the medical department 23 haven't put anything in writing to have any special 24 needs like exercising and crutches and knee braces, 25 because the medical staff hadn't listed anything,</p>
<p style="text-align: right;">Page 18</p> <p>1 A I have a recollection at least one time. 2 Q At least one? 3 A Yes. 4 Q Looks as though you may have seen him at 5 least three times? 6 A I doubt if it was three, but I know I 7 seen him at least once. 8 Q And what did Dr. Freedman do for you? 9 A He said he'd like to operate on my knees 10 and get the fluid off the knees. He said that was 11 middle age arthritis, and he said that the bones 12 looked a little wore out, you know what I mean? He 13 showed me the x-rays and he said he acknowledged 14 that I may have a certain amount of pain, but to 15 alleviate the problem, you know, it would probably 16 need surgery. 17 Q Who sent you to Dr. Freedman? 18 A Dr. Burns. 19 Q Dr. Burns sent you to a specialist? 20 A Yes. 21 Q For your knees? 22 A Yes. 23 Q Did Dr. Burns do anything else for your 24 knees? 25 A No. She didn't do anything. As a matter</p>	<p style="text-align: right;">Page 20</p> <p>1 security doesn't have to abide by my conditions. 2 Security overrule any complications that I may have, 3 you know. And in terms of if I'm in pain say today, 4 you know what I mean, if my knees are swollen, 5 security would blatantly tell me that I would have 6 to walk to chow or I would have to wait. 7 And even if I see medical, there is 8 nothing signed by a doctor indicating that I would 9 have to have crutches or braces; they would either 10 take them away or deny me to have these things. And 11 a lot of times, that's what would happen in these 12 cases because -- 13 Q Is it not true that you threw your knee 14 brace in the trash when you were in the infirmary? 15 A No. 16 Q No? 17 A No. Anything such as that matter I would 18 be referred to the psychologist because by me being 19 incarcerated and showing those type of reactions 20 would deem a psychological problem, so there is 21 nothing to excuse any actions of that nature. 22 Q So, you did not throw your knee brace 23 in the trash? 24 A No. That behavior would not be 25 tolerated.</p>

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<p style="text-align: right;">Page 21</p> <p>1 Q And you did not sign a refusal for 2 crutches? 3 A No, no. 4 Q No? 5 A No. Anything psychological would be 6 deemed abnormal reactions in a situation like this, 7 so I wouldn't act out of the norm knowing that I 8 would be put in some type of a refined -- 9 Q Is that your signature? 10 A No. That's not my signature. 11 Q That's not your signature? 12 A No. 13 Q Okay. Is that your signature? 14 A Yes. 15 Q Yes? 16 MS. RODGERS: Could you identify the 17 document? 18 MS. MONZO: Sure. The first document 19 is refusal of treatment which Mr. Simms denies his 20 signature. The second document is the signature at 21 the end of his complaint which he agrees is his 22 signature. 23 BY MS. MONZO: 24 Q Okay. Have you ever refused any type of 25 physical therapy?</p>	<p style="text-align: right;">Page 23</p> <p>1 A Yes. 2 Q And Dr. Burns did send you to Dr. 3 Freedman, correct? 4 A Yes. 5 Q And Dr. Freedman is a specialist, 6 correct? 7 A Yes. 8 Q And you saw Dr. Freedman for your knees, 9 correct? 10 A Yes. 11 Q Isn't it true that Dr. Freedman provided 12 you medical treatment in his office? 13 A No. 14 Q No? 15 A No. 16 Q You did not receive any injections in 17 your knees? 18 A No. 19 Q Okay. So, Dr. Burns was providing you 20 with treatment, correct? 21 A No. 22 Q She was not providing you with any 23 treatment? 24 A No. 25 Q You saw her but she was not treating you?</p>
<p style="text-align: right;">Page 22</p> <p>1 A No. 2 Q No? 3 A No. 4 Q What exactly is your complaint against 5 Dr. Burns? 6 A Dr. Burns, denial of medical treatment, 7 advance medical treatment that's needed to 8 accommodate my intense pain dealing with my 9 symptoms. 10 Q Did you see Dr. Burns on a regular basis 11 regarding the pain in your knees? 12 A I seen her on a regular basis whenever it 13 was possible. 14 Q So, that's yes? 15 A Yes. 16 Q Yes? 17 A Yes. 18 Q And Dr. Burns prescribed medication for 19 you for your knees, correct? 20 A No. 21 Q You did not receive any prescriptions 22 from Dr. Burns? 23 A At one time I did. 24 Q So, yes, Dr. Burns did prescribe 25 medication for you?</p>	<p style="text-align: right;">Page 24</p> <p>1 A No. That's the basis of me filing these 2 complaints. 3 Q My understanding was that she was 4 treating you but you didn't like the treatment 5 that you were getting; you thought you should get 6 something different? 7 A She seen me, but she wasn't treating me 8 because if she was treating me, the situation would 9 have been in its final stages of me having surgery 10 for my knees. 11 Q And what do you think surgery for your 12 knees is going to do? 13 A I was told by Dr. Freedman that I needed 14 surgery to alleviate the dysfunction or the 15 abnormalities dealing with my knees, why it keeps 16 swelling and the pain is intense, you know, and I 17 need crutches for the most part on and off maybe 18 because if I'm in an institution and I have to use 19 my legs, you know, for the most part and especially 20 during the winter months I have intense swelling on 21 my knees. 22 Q Okay. And it's your position, then, that 23 Dr. Burns had not given you a knee brace? 24 A Dr. Burns said that to alleviate this 25 problem --</p>

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<p style="text-align: right;">Page 25</p> <p>1 Q Yes?</p> <p>2 A Or to help alleviate this problem, he</p> <p>3 would have to do surgery.</p> <p>4 Q Dr. Burns told you that?</p> <p>5 A No, Dr. Freedman, the orthopedic.</p> <p>6 Q But I'm asking you, did Dr. Burns give</p> <p>7 you a knee brace?</p> <p>8 A No. I didn't get no knee brace. I'm in</p> <p>9 an institution, and I'm not allowed to have braces</p> <p>10 coming into the institution for security.</p> <p>11 Q Are you dealing me Dr. Burns is a man?</p> <p>12 A Dr. Freedman, he made requests for me to</p> <p>13 have braces, but he can't authorize me to have</p> <p>14 braces because I'm visiting from the Department of</p> <p>15 Corrections.</p> <p>16 Q Is Dr. Burns a man or a woman?</p> <p>17 A She's a woman.</p> <p>18 Q And did Dr. Burns give you a knee brace?</p> <p>19 A No.</p> <p>20 Q Did Dr. Burns give you crutches?</p> <p>21 A No.</p> <p>22 Q Did Dr. Burns write a memo for a bottom</p> <p>23 bunk for you?</p> <p>24 A Yes, she did.</p> <p>25 Q Okay.</p>	<p style="text-align: right;">Page 27</p> <p>1 softball and then about a year later you hurt your</p> <p>2 left knee?</p> <p>3 A Well, at the time the right knee because</p> <p>4 I slid on the right side.</p> <p>5 Q Uh-huh?</p> <p>6 A And that knee was the knee that showed</p> <p>7 the most intense pain and the swelling.</p> <p>8 Q Uh-huh?</p> <p>9 A And at that time of the complaint, I</p> <p>10 didn't actually get medical treatment until three</p> <p>11 days after that incident, after it happened, because</p> <p>12 I believe it was maybe during the holiday or before</p> <p>13 the holiday and there was no doctors or personnel on</p> <p>14 security but maybe just a nurse. There wasn't no</p> <p>15 doctors on at the time.</p> <p>16 Q What happened in August of 2004,</p> <p>17 anything?</p> <p>18 A August of 2004?</p> <p>19 Q Yes?</p> <p>20 A What are you speaking about?</p> <p>21 Q You said on August 24, 2004, I was denied</p> <p>22 emergency treatment.</p> <p>23 A Yes.</p> <p>24 Q Tell me about that.</p> <p>25 A I requested treatment for my illnesses.</p>
<p style="text-align: right;">Page 26</p> <p>1 A But I didn't get it.</p> <p>2 Q Okay. You are having problems with both</p> <p>3 of your knees?</p> <p>4 A Yes, ma'am.</p> <p>5 Q How did you injure your knees?</p> <p>6 A I injured the knees while incarcerated.</p> <p>7 Q How did you injure them?</p> <p>8 A During recreation time.</p> <p>9 Q Did you injure them at the same time?</p> <p>10 A Yes.</p> <p>11 Q You injured both of your knees</p> <p>12 at the same time?</p> <p>13 A Yes.</p> <p>14 Q What were you doing that caused both of</p> <p>15 your knees to be injured?</p> <p>16 A I was running.</p> <p>17 Q You were running?</p> <p>18 A Yes.</p> <p>19 Q Were you playing a game?</p> <p>20 A Softball.</p> <p>21 Q You were playing softball and you were</p> <p>22 running and you hurt both of your knees?</p> <p>23 A Yes. I slid home base.</p> <p>24 Q Can you tell me why your medical records</p> <p>25 suggest that you hurt your right knee while playing</p>	<p style="text-align: right;">Page 28</p> <p>1 And security, once again, said that he is not going</p> <p>2 to the medical department, go back to your bunk, and</p> <p>3 he advised me that, he called up there and they</p> <p>4 would not be seeing me.</p> <p>5 Q So, you're saying you were not seen by a</p> <p>6 doctor on August 24, 2004?</p> <p>7 A No. I was not seen.</p> <p>8 MS. MONZO: Okay. I don't think I</p> <p>9 have any other questions right now.</p> <p>10 CROSS-EXAMINATION</p> <p>11 BY MR. RODGERS:</p> <p>12 Q Mr. Simms, I'm Andrea Rodgers, and I</p> <p>13 represent Dr. Freedman. Can you tell me what you</p> <p>14 believe Dr. Freedman did wrong?</p> <p>15 A Dr. Freedman, what he did wrong is that</p> <p>16 he is an orthopedic doctor, and I have a great deal</p> <p>17 of respect for him, but, however, diagnosing my</p> <p>18 problems with my knees and knowing what type of pain</p> <p>19 I'm under or enduring with the complication of the</p> <p>20 recurring swelling, he did little or no assistance.</p> <p>21 He offered little or no assistance in terms of</p> <p>22 getting me emergency care or relaying this</p> <p>23 information to the Department of Corrections,</p> <p>24 which is Dr. Burns, and letting her know the</p> <p>25 information, what he told me in the office, that the</p>

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